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July 20, 2000

EX PARTE OR LATE FILED

By Hand

Magalie Roman Salas
Secretary
Federal Communications Commission
Room CY-A257
445 Twelfth Street, SW
Washington, D.C. 20554

Re: *Oral Ex Parte*

In the Matter of Applications for Consent to the Transfer of Control of Licenses
and Section 214 Authorizations from Ameritech Corporation, Transferor, to SBC
Communications, Inc., Transferee, CC Docket No. 98-141,

In the Matter of Deployment of Wireline Services Offering Advanced
Telecommunications Capability, CC Docket No. 98-147

Dear Ms. Salas:

On July 19, 2000, William Bailey, Assistant General Counsel, NorthPoint Communications, Inc. and Ruth Milkman, Lawler, Metzger & Milkman, counsel to NorthPoint, met with Rebecca Beynon, advisor to Commissioner Furchtgott-Roth, Kyle Dixon, advisor to Commissioner Powell, and Dorothy Attwood, Senior Legal Advisor to Chairman Kennard. On July 20, 2000, Mr. Bailey and Richard Metzger, Lawler, Metzger & Milkman, met with Sarah Whitesell, advisor to Commissioner Tristani, and Jordan Goldstein, advisor to Commissioner Ness.

In those meetings, NorthPoint discussed the impact that various aspects of SBC's proposal as set forth in its July 13, 2000 submission to the Commission in CC Docket No. 98-141 would have on NorthPoint's ability to provide advanced services in areas served by SBC incumbent LECs. NorthPoint referred to the enclosed document, as well as NorthPoint's July 18, 2000 letter to Lawrence Strickling, Chief, Common Carrier Bureau in CC Docket No. 98-141. In addition, NorthPoint stated that the issues that have been raised in the context of SBC's request for waiver of the SBC-Ameritech merger conditions, including retention of copper loops, collocation in remote terminals, and access to the full functionality of equipment used to provide a "Broadband Service

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Offering" such as that described by SBC, should be considered in a broader rulemaking. Finally, NorthPoint requested that the Commission clarify its rule that competitive LECs are entitled to access to incumbent LEC central offices to install, maintain and repair their equipment 24 hours a day, 7 days a week, as discussed in detail in NorthPoint's letter of June 29, 2000 in CC Docket No. 98-147.

Pursuant to section 1.1206(b)(1) of the Commission's rules, 47 C.F.R. §1.1206(b)(1), an original and three copies of this letter and enclosure are being provided to you for inclusion in the public record of the above-referenced proceeding. If you have any questions, please contact the undersigned.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ruth Milkman".

Ruth Milkman

Enclosure

cc: Dorothy Attwood
Jordan Goldstein
Sarah Whitesell
Kyle Dixon
Rebecca Beynon

Project Pronto & Facilities-Based Advanced Services Competition



NorthPoint

Today, DSL is limited by distance, Digital Loop Carriers and fiber, and those limits are borne equally by ILECs and DLECs in their DSL deployment.

Pronto will mitigate the *distance* limitations of DSL by deploying *more fiber* and *more DLCs* (according to SBC, more than 20,000 of these).

After Pronto, however, the burden of the DSL limits will not be borne equally. Rather, due to the "externalities" of the project architecture, all of the benefits will accrue to the ILECs' services (deployed in the RT), and none of those to the facilities of the DLEC in the central office (who will be denied, according to SBC, any realistic opportunity to collocate at RTs). So while Pronto rebalances the limits of DSL – adding fiber and DLC obstacles, reducing distance limitations – in doing so it creates an inherently discriminatory landscape that damages competition.

Pronto should not be halted, but should be deployed in a manner that maintains a robust, facilities-based competitive market.

Collocation at the RT is a right of the DSL CLEC, and collocation there should be afforded to DLECs "on the same terms and conditions that apply to [the ILECs'] own DSLAM." (UNE Remand at ¶ 313, 221.) If SBC is going to flout this rule by deploying "out of line," (see, e.g., *Merger Conditions* ¶ 363 and n.674 ["affiliate will 'wait in line for collocation, petition to open closed offices, and otherwise deal with the same collocation and OSS implementation problems experienced by CLECs."]), then it must take measures to assure that competitive providers can deploy in RTs wherever technically feasible. In this regard, new remote terminals (well over 60% of the Pronto build-out) must be designed to accommodate competitive facilities.

Features and Functionalities of RT Equipment. Because collocation at RTs is not always technically feasible and – absent monopoly scope and scale – will not always prove economic, the ILEC must make available the RT-based, DSL unbundled service to CLECs on the same terms and conditions it does to its affiliate, but may not "hobble" the functionality of the devices merely because it does not, itself, seek to offer that functionality to *its* customers. For example, higher-speeds, QoS ATM functions, and multi-PVCs are all capabilities of the Alcatel and UMC boxes that DSL CLECs need to support their innovative, exciting new services like streaming and interactive multimedia and VoDSL. SBC makes vague promises about the availability of these capabilities, but in the end, retains complete discretion regarding their deployment. SBC must make available all functionalities the equipment is capable of providing to ensure that technology, not SBC, remains the gatekeeper of new services to consumers.

Maintain copper plant. Fiber growth is good only if it supplements, but does not *supplant*, the existing and increasingly valuable copper infrastructure. DSL CLECs have invested hundreds of millions of dollars to address the market served on copper. If ILECs are permitted to "retire" that asset in the face of increasing demand (wholesale and retail), they are doing so as monopolists, not as wholesale market participants, and they will scuttle this high-technology investment. Copper must be maintained, supported, and unbundled for continued service to the majority of subscribers regardless of, and as a pre-condition to, the ILEC fiber build plans.